Remarks

The present response is to the Office Action mailed in the above referenced case on October 3, 2005, made Final. The rejections are repeated from an earlier action, also made Final, and the finality is based on the assumption of the correctness of the Examiner's reasoning in the action, which is flawed and in contention. The applicants are filing a request for continued prosecution, and paying the fees, but respectfully requests the finality be withdrawn and the fee paid be credited to deposit account 50-0534.

The problem in this case is exemplified in the Examiner's "Response to Arguments" section on page 10 of the present action. The Examiner states that applicants argue that Weinberg does not teach testing for applied structural changes, but that Weinberg "...clearly teaches interacting with websites located on the server and running data checks on said website to determine structural changes to the website (column 10: e.g. "Text check", "image Check"). *But text and image changes are not structural changes - these are merely changes in data content.*

Taken as a whole and in context, Weinberg teaches a system for testing servers to determine functionality of the server itself, and *changes in content* in data on pages of a transactional server. The following paragraph is taken from Weinberg column 2, lines 23-40"

"In a preferred embodiment, the testing tool generates tests by recording interactions between a user and the transactional server as the user performs a transaction, such as a business process. For example, in a web-based implementation, the testing tool records interactions between a web browser and a web server, including link selections and form submissions made by the user and pages returned by the server. During or following the recording session, the user can define verification steps to test for expected server responses. For example, the user can define verification steps to test for expected text messages, images, or numerical values within a web page or other screen returned by the transactional server. During execution of the test, which may occur in either an attended or unattended mode, the testing tool "plays back" the recorded user steps while

monitoring and recording the responses of the transactional server. The results of the test, including the results of the verification steps, are stored for viewing."

Note that in Weinberg a test is created by recording actions performed by a user in navigating through a server's structure and downloading information, such as text and images, from pages on the server. Tests are run by the system automatically repeating the steps recorded, monitoring and recording the responses of the transactional server, and after finishing the sequence, recording the results of the test. From the above paragraph: "The user can define verification steps to test for expected server responses. For example, the user can define verification steps to test for expected text messages, images, or numerical values within a web page or other screen returned by the transactional server."

Clearly, if a *structural* alteration is made between the time the test is recorded and the test is run, such as a link is changed to send the navigation sequence to a different destination than the one recorded, the test itself would fail; it would not complete.

In Weinberg's system, the purpose is to determine if the server itself remains functional, and if *expected* results are returned. In applicants' system the navigation and extraction routine is running to retrieve information from the website, and there is no expectation of what the information is. For example, a client's bank balance now as opposed to the balance at a previous time. Applicants' error system, which looks for *functional* differences, is concerned with *whether the information can be retrieved at all*, not whether it is the same as expected, as in Weinberg.

In applicants' system the purpose is to find and record any breakdown in the *ability* to retrieve information. This is because in applicants' system the script is visiting third party sites on behalf of a client and retrieving typically financial information. The third parties, i.e. banks and savings institutions, have no responsibility to report structural changes in their sites to the applicants' system, therefore site changes and updates may well result in *interruption* of applicants' script, so the information for the client cannot be retrieved; so the script itself has to be updated.

So a basic error in the rejections is the assertion that a change in text or an image is a structural change. It isn't. In Weinberg there is a necessity and a requirement that the

recorded navigational routine performs to completion. Applicants are checking for any change in the routine that causes information retrieval to fail. It is an entirely different thing.

So an important issue in the present rejection of claim 1, for example, is on page 3 of the action, concerning the element:

"a change-notification module for indicating a point in process where a navigation and interaction routine has failed and for creating a data file containing parameters associated with the failed routine;"

The Examiner relies on Weinberg, column 2, lines 39 and 40, on column 6, lines 19-22: and on column 17, lines 10-52. The applicants find considerable teaching as to a tree structure for displaying test results, but no *specific or enabling teaching* in any of this for indicating a point-in-process where a navigation and interaction routine has failed.

The lack of correspondence of the teaching of Weinberg to the change notification module in claim 1 applies to all of the other rejections of the standing claims, as well, so the applicants still firmly believe the claims are patentable over the art of Weinberg, and that these claims should be allowed.

The applicants have added fifty-eight new claims. Claims 58-86 are copied from and/or claim the same or substantially the same subject matter as the allowed claims of U.S. Application Serial No. 10/040,314 (U.S. Publication No. 20030126134 A1). This meets the requirements of 35 U.S.C. 135(b). Applicants intend to submit the additional information required by 37 C.F.R. 41.202(a) and request a declaration of interference with U.S. Application Serial No. 10/040,314 or the patent which issues therefrom at a later date.

If there are any time extensions needed beyond any extension specifically requested with this amendment, such extension of time is hereby requested. If there are any fees due beyond any fees paid with this amendment, authorization is given to deduct such fees from deposit account 50-0534.

Respectfully Submitted,
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